

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1618 of 1998

with

CIVIL APPLICATION No 10784 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?  
1 to 5 - No

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KANTABEN DHARSIBHAI TIKARIA

Versus

MUKESHBHAI AMRUTLAL BELANI

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Appearance:

MS MAMTA R VYAS for Petitioner

MR AJ DESAI for Respondent No. 1

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CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 01/04/99

ORAL JUDGEMENT

In this revision application, the original defendant of Regular Civil Suit No. 86/98 has challenged the judgment and order dated 28.10.1998 passed by the learned Extra Assistant Judge, Surendranagar in Civil Misc. Appeal No. 39/98 arising from the order below Exh. 5 in Regular Civil Suit.

2. The learned counsel for the petitioner has moved

draft amendment for seeking certain mandatory interim orders on the ground that the petitioner's right to get air and light through the two windows in question has been obstructed on account of the construction put up by Mukeshbhai Amrutlal Belani during pendency of the suit.

3. The learned counsel for the respondent-original plaintiff has opposed the revision application and also the draft amendment.

4. It appears to the Court that in view of the nature of the controversy between the parties, it would be just and proper to direct that Regular Civil Suit No. 86/98 filed by Mukeshbhai Amrutlal Belani against Kantaben Dharsibhai Tikaria, the present petitioner and also Regular Civil Suit No. 125/98 filed by Kantaben against Mukeshbhai Belani be disposed of by the same Court at Surendranagar as expeditiously as possible and in any case within two months from the date of receipt of writ of this Court or a certified copy of this order whichever is earlier. Looking to the nature of the disputes between the parties, the learned trial Judge shall also consider whether he should go for local inspection which would give a correct picture about the actual position at the site. Thereafter the suit can be decided expeditiously and the controversy can be resolved at the earliest.

In case the above two suits are before two different Courts at Surendranagar, the learned District Judge shall see to it that the two suits are placed before the same Court in order to avoid any conflict of decisions. The suits may also be consolidated and decided at the earliest.

5. Till the suits are decided as aforesaid, the parties shall maintain status quo regarding the construction.

6. The trial Court shall send a report to this Court about compliance with the aforesaid direction to decide the suits within two months from the date of receipt of writ of this Court or a certified copy of this order, whichever is earlier.

7. The revision application is disposed of in terms of the aforesaid direction. Rule is discharged with no order as to costs.

8. Since the main Civil Revision Application is disposed of, Civil Application for stay does not survive

and the same is disposed of accordingly.

Sd/-

April 1, 1999 (M.S. Shah, J.)

sundar/-